



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- -x
UNITED STATES OF AMERICA :
 :
- v. - :
 :
ANGELA BOSQUEZ, :
 :
Defendant. :
----- -x

ORDER

S1 19 Cr. 169 (VM)

WHEREAS, with the consent of the defendant, ANGELA BOSQUEZ, her guilty plea allocution was taken before a United States Magistrate Judge on December 26, 2019; and

WHEREAS, a transcript of the allocution was made and thereafter was transmitted to the District Court; and

WHEREAS, upon review of that transcript, this Court has determined that the defendant entered the guilty plea knowingly and voluntarily and that there was a factual basis for the guilty plea;

IT IS HEREBY ORDERED that the defendant's guilty plea is accepted.

SO ORDERED:

Dated: New York, New York

6 January 2020

A handwritten signature in black ink, appearing to read "Victor Marrero".

THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

JCQAABOSP

Plea

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

19 CR 169 (BCM)

5 ANGELA BOSQUEZ,

6 Defendant.

7 -----x
8 New York, N.Y.
9 December 26, 2019
11:40 a.m.

10 Before:

11 HON. BARBARA C. MOSES,

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

15 United States Attorney for the
16 Southern District of New York

17 JUSTIN RODRIQUEZ

Assistant United States Attorney

18 RICHARD LIND

19 Attorney for Defendant Bosquez

20
21
22 ALSO PRESENT: FRANCISCO OLIVERO, Spanish Language Interpreter

JCQAABOSP

Plea

1 (Case called)

2 MR. RODRIQUEZ: Good morning, your Honor.

3 Justin Rodriguez, for the United States.

4 THE COURT: Good morning, Mr. Rodriguez.

5 MR. LIND: Good morning, your Honor.

6 Richard Lind, for the defendant Angela Bosquez, who
7 standing next to me.

8 THE COURT: Good morning, Mr. Lind, Ms. Bosquez.

9 You may be seated.

10 Ms. Bosquez, I am Magistrate Judge Moses. Are you
11 able to hear and understand our proceedings through the
12 interpreter?

13 THE DEFENDANT: Yes.

14 THE COURT: Thank you.

15 I understand that we are here for a change of plea,
16 counsel. I am informed that Ms. Bosquez having previously
17 pleaded not guilty now wishes to plead guilty to Count One of
18 the information in this matter.

19 Mr. Lind, is that correct?

20 MR. LIND: That's correct, your Honor.

21 THE COURT: Thank you very much.

22 Ms. Bosquez, I am holding up a form called "Consent to
23 Proceed Before a United States Magistrate Judge on a Felony
24 Plea Allocution". That looks like your signature at the
25 bottom.

JCQAABOSP

Plea

1 Did you sign this form?

2 THE DEFENDANT: Yes.

3 THE COURT: What this form says is that you have the
4 right to have your plea taken by a United States district judge
5 but you're agreeing to have your plea taken by a United States
6 magistrate judge such as myself, a magistrate judge with
7 authority to take your plea with your consent and you have all
8 of the same rights and protections as if you were before a
9 district judge. If you are found guilty you will be sentenced
10 by the district judge assigned to your case.

11 Did you sign this consent form voluntarily?

12 THE DEFENDANT: Yes.

13 THE COURT: Before you signed the form, did your
14 lawyer explain it to you?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you wish to proceed with your plea in
17 my courtroom today?

18 THE DEFENDANT: Yes.

19 THE COURT: I will accept your consent.

20 As you heard me say to your lawyer, it's my
21 understanding that you want to change your plea and enter a
22 plea of guilty to Count One of the information in this action.

23 Is that correct?

24 THE DEFENDANT: Yes.

25 THE COURT: Now before deciding whether to accept your

JCQAABOSP

Plea

1 guilty plea, I am going to ask you a series of questions. It's
2 important that you answer my questions honestly and completely.
3 The purpose of the questions is to make sure that you
4 understand your rights, to make sure you are pleading guilty of
5 your own free will and to make sure that you are pleading
6 guilty because you are guilty and not for any other reason.

7 Do you understand what I'm saying?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: OK. If you don't understand any of the
10 questions I ask you or if you want time to consult with your
11 attorney, please, speak up and let me know. It is important
12 that you understand every question before you answer it.

13 Are you ready?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: I will ask the courtroom deputy to swear
16 the defendant.

17 (Defendant Angela Bosquez sworn)

18 THE COURT: All right. Ms. Bosquez, you are now under
19 oath. What that means, among other things, is that if you
20 intentionally give a false answer to any of my questions you
21 could be prosecuted for perjury.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All right. Please state your full name.

25 THE DEFENDANT: Angela Bosquez.

JCQAABOSP

Plea

1 THE COURT: Is there a second part of your last name?

2 THE DEFENDANT: Roque, R-O-Q-U-E.

3 THE COURT: Is it all right for me to call you

4 "Ms. Bosquez"?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: All right. How old are you, Ms. Bosquez?

7 THE DEFENDANT: 52.

8 THE COURT: Are you a citizen of the United States?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Were you born here or were you a
11 naturalized citizen?

12 THE DEFENDANT: No. I was born in Puerto Rico.

13 THE COURT: In the United States. Thank you.

14 How far did you go in school?

15 THE DEFENDANT: I finished my GED.

16 THE COURT: You got a GED. OK. Can you read and
17 write in Spanish?

18 THE DEFENDANT: Yes.

19 THE COURT: How about in English?

20 THE DEFENDANT: Not much.

21 THE COURT: Not much in English, all right.

22 Are you now or have you recently been under the care
23 of a doctor, a psychiatrist or a psychologist for any reason?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: OK. Which one of those kinds of doctors?

JCQAABOSP

Plea

1 THE DEFENDANT: I am receiving drug treatment and I am
2 receiving treatment by a psychiatrist.

3 THE COURT: So you are seeing a psychiatrist as part
4 of your drug treatment?

5 THE DEFENDANT: I have an illness. I am bipolar and
6 have depression.

7 THE COURT: Does the psychiatrist that you are seeing
8 treat those conditions as well?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: OK. Are you taking any medication
11 prescribed by the psychiatrist?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And what are those?

14 THE DEFENDANT: Arizapole, Trazodone, Bupropion.

15 THE COURT: Bupropion, if I recall correctly, is an
16 antianxiety drug; is that right?

17 THE DEFENDANT: I suffer from anxiety.

18 THE COURT: And trazodone is for your bipolar
19 symptoms?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And the other one you mentioned was called
22 Arizapole; am I saying it right?

23 THE DEFENDANT: For depression.

24 THE COURT: Do you have any condition that you haven't
25 mentioned yet that affects your ability to see or to hear?

JCQAABOSP

Plea

1 THE DEFENDANT: No.

2 THE COURT: Do you have any condition that you haven't
3 mentioned yet that affects your ability to think or to
4 understand or to make judgments or decisions on your own
5 behalf?

6 THE DEFENDANT: I am unable to concentrate much.

7 THE COURT: OK. Why is that, ma'am?

8 THE DEFENDANT: My mind is like that I don't --

9 THE COURT: OK. Have you taken your prescribed
10 medications today or last night? I don't know what time you
11 are supposed to take them.

12 THE DEFENDANT: I took them last night.

13 THE COURT: OK. And that's when they were prescribed
14 for you to take?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Other than your prescribed medications,
17 have you taken any drugs, medicine or pills in the last 24
18 hours?

19 THE DEFENDANT: No. I have methadone medication.

20 THE COURT: So you also took your methadone?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Is that prescribed by a doctor?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: OK. When did you take that?

25 THE DEFENDANT: Today.

JCQAABOSP

Plea

1 THE COURT: This morning.

2 THE DEFENDANT: Yes, everyday.

3 THE COURT: OK. So last night you took your

4 Arizapole, your Trazodone and your Bupropion?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: As prescribed?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And this morning you took your methadone
9 as prescribed?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Any other drugs, medicine or pills in the
12 last 24 hours?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: All right. Do any of the drugs that were
15 prescribed to you affect your ability to think or to understand
16 or to make decisions on your own behalf?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: OK. Is your mind clear today?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand what is happening in
21 this proceeding?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Does either counsel have any objection to
24 the defendant's competence to plead?

25 MR. RODRIQUEZ: No, your Honor.

JCQAABOSP

Plea

1 MR. LIND: No, your Honor.

2 THE COURT: Very well. Ms. Bosquez, have you received
3 a copy of the information in your case? The information is the
4 document containing the legal charge against you.

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you read it? Well, let me rephrase.
7 Has it been translated into Spanish for you?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Did you read it in translation or did
10 someone read it to you in Spanish?

11 THE DEFENDANT: Someone read it to me in Spanish.

12 THE COURT: All right. Do you understand what it says
13 you did?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you want me to read it to you today?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: All right.

18 THE DEFENDANT: No. I'm sorry. I don't understand.

19 THE COURT: That's up to you. If you would like me to
20 read it to you I will read it to you and the translator will
21 translate it today.

22 THE DEFENDANT: No. It was translated for me.

23 Thank you.

24 THE COURT: All right. So I will not read it to you
25 today. If you change your mind, let me know.

JCQAABOSP

Plea

1 Have you had time to talk to your attorney about the
2 charge against you and about how you wish to plead?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Has your attorney explained the
5 consequences of pleading guilty?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Are you satisfied so far with your
8 attorney's representation of you?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: What I'm going to do next is I am going to
11 explain certain constitutional rights that you have but that
12 you will be giving up if you enter a guilty plea. So I want
13 you to listen carefully to what I am going to tell you. If you
14 don't understand something I say, stop me, and either I or your
15 attorney will explain the issue more fully.

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Under the Constitution and laws of the
18 United States, you have a right to plead not guilty to the
19 charges contained in the information.

20 Do you understand that.

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: If you plead not guilty you'll be entitled
23 under the Constitution and laws of the United States to a
24 speedy and public trial by a jury of those charges. At trial
25 you would be presumed innocent. The government would be

JCQAABOSP

Plea

1 required to prove you guilty beyond a reasonable doubt before
2 you could be found guilty. You could not be convicted unless a
3 jury of 12 people agreed unanimously that you were guilty
4 beyond a reasonable doubt.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: If you went to trial, then at that trial
8 and at every stage of your case you'd have the right to be
9 represented by an attorney. If you could not afford an
10 attorney, an attorney would be appointed to represent you at
11 government expense. Even if you decided to retain private
12 defense counsel but later ran out of money, you'd be entitled
13 to an appointed attorney then to continue to represent you.
14 You are entitled to an attorney all the way through and not just
15 for a guilty plea. So your decision to plead guilty should not
16 depend on whether you could afford to hire a lawyer.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: At trial the witnesses for the prosecution
20 would have to come to court and testify in your presence where
21 you could see them and hear them and your lawyer could
22 cross-examine them. If you wanted, your lawyer could offer
23 evidence on your behalf as well. Your lawyer would be able to
24 use the Court's power known as subpoena power to compel
25 witnesses to come to court even if they didn't want to.

JCQAABOSP

Plea

1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: If you were convicted at trial you would
4 have the right to appeal that verdict to a higher court.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And as I said before, you have the right
8 to plead not guilty. Even today although you came to court for
9 the purpose of entering a guilty plea you have the right to
10 change your mind to persist in your not guilty plea and to
11 proceed towards trial but if you do plead guilty and if the
12 Court accepts your plea, you will give up the right to trial
13 and the rights that go with this that I've just described to
14 you. If you plead guilty there will not be any trial. All
15 that will remain to be done would be to impose a sentence. You
16 and the government will have a chance to make certain arguments
17 about what sentence will be but there won't be a trial to
18 determine whether you were guilty or not guilty of any charge
19 to which you plead guilty.

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you also understand that the decision
23 as to the appropriate sentence in your case will be entirely up
24 to the sentencing judge, not the government, not your lawyer
25 and not me. That judge will be limited only by what the law

JCQAABOSP

Plea

1 requires.

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: What that means is even if you are
4 surprised or disappointed by your sentence you will still be
5 bound by your guilty plea.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Finally, if you do plead guilty you are
9 giving up the right not to incriminate yourself. I will ask
10 you questions about what you did in order to satisfy myself
11 that you're actually guilty. So by pleading guilty you will be
12 admitting your factual, as well as your legal guilt.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: I need to go back for a moment because I
16 just realized that I forgot to tell you about your testimonial
17 rights. So let me just revisit that for a moment. If you go
18 to trial you'd have the right to testify in your own defense if
19 you wished to do so but you would also have the right not to
20 testify. If you chose not to testify that could not be used
21 against you in any way. No inference or suggestion of guilt
22 would be permitted from the fact that you did not testify. Do
23 you understand that this is that right that you have but that
24 you'll be giving up if you enter a plea of guilty?

25 THE DEFENDANT: Yes, your Honor.

JCQAABOSP

Plea

1 THE COURT: All right. So taking a look at the
2 information in your case, the document I mentioned just a
3 moment ago, I see that you are charged in Count One with
4 conspiracy to distribute and to possess with intent to
5 distribute the following narcotics.

6 First, mixtures and substances containing a detectable
7 amount of fentanyl.

8 Second, mixtures and substance containing a detectable
9 amount of heroin.

10 Third, mixtures and substances containing a detectable
11 amount of cocaine, all in violation of Title 21 of U.S.C.
12 Sections 841(b)(1)(c) and 846.

13 I am going to ask the Assistant United States Attorney
14 to state the elements of that charge. The elements are the
15 things that the government would have to prove beyond a
16 reasonable doubt at trial.

17 Mr. Rodriguez.

18 MR. RODRIQUEZ: Count One has two elements, your
19 Honor.

20 First, that two or more people agreed to distribute or
21 possess with intent to distribute a quantity of mixtures and
22 substances containing a detectable amount of either fentanyl,
23 heroin or cocaine.

24 Second, that the defendant knowingly and voluntarily
25 joined that agreement.

JCQAABOSP

Plea

1 THE COURT: And the venue element?

2 MR. RODRIQUEZ: The government would also have to
3 prove by a preponderance of the evidence that at trial that
4 venue is proper here in the Southern District of New York.

5 THE COURT: Thank you, Mr. Rodriguez.

6 Ms. Bosquez, I am now going to tell you the maximum
7 possible penalty for the crime charged in Count One. "Maximum"
8 means "the most", the most that could be imposed. It does not
9 mean that this is necessarily what you will receive but by
10 pleading guilty you will be exposing yourself to a possibility
11 of receiving a punishment up to the maximum that I am about to
12 describe.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: The maximum term of imprisonment for the
16 crime charged in Count One is 20 years in prison which could be
17 followed by up to a lifetime on supervised release.

18 Now if your sentence does include supervised release
19 you'll be subject to supervision by our probation department
20 after you're released from prison. If you were to violate any
21 condition of that supervised release, the Court could revoke
22 the term of supervised release previously imposed and return
23 you to prison without giving you time for credit previously
24 served on post release supervision.

25 Count One also carries a mandatory minimum sentence.

JCQAABOSP

Plea

1 In this case a mandatory minimum of three years of supervised
2 release. A "mandatory minimum" means that the sentencing judge
3 cannot give you less than that.

4 In addition to those restrictions on your liberty, the
5 maximum possible punishment for the crime charged in Count One
6 includes a financial penalty. The maximum allowable fine is \$1
7 million or twice the profits of the criminal activity or twice
8 what someone other than yourself lost because of criminal
9 activity whichever is greater.

10 In addition, by pleading guilty you will admit to the
11 forfeiture allegations in the indictment -- excuse me -- the
12 information and will agree to forfeit any property within the
13 scope of Title 21 of U.S.C. Section 853.

14 I am also required by law to tell you that there is an
15 additional special assessment of \$100 which is required to be
16 imposed on each count of conviction.

17 Now you told me a few minutes ago that you are a U.S.
18 citizen, correct?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: The reason I ask that question is because
21 if you were not a citizen your guilty plea would likely have
22 adverse consequences for your ability to remain in or return to
23 the United States. And I am required to advise all defendants
24 of these consequence even if they tell me they are U.S.
25 citizens. These consequences could include removal,

JCQAABOSP

Plea

1 deportation, denial of citizenship or denial of admission to
2 the United States in the future. Your removal or deportation
3 could be mandatory and if that did happen you could still be
4 bound by your guilty plea. That is you would not be able to
5 withdraw it. Regardless of any advice you received from your
6 counsel or others regarding immigration consequences of the
7 plea.

8 Do you understand what I have told you?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. Now, I understand that there
11 is a written plea agreement between you and the government. It
12 is being handed to me now.

13 (Pause)

14 THE COURT: It is dated December the 17th. It's a
15 letter dated December the 17th, addressed to your attorney,
16 Mr. Lind. Let me look at the last page. It appears to have
17 your signature on the last page which I am holding up.

18 Did you sign this plea agreement, ma'am?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Did someone read it to you in Spanish
21 before you signed it?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. Do you understand what it
24 says?

25 THE DEFENDANT: Yes, your Honor.

JCQAABOSP

Plea

1 THE COURT: Did you discuss it with your attorney?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Has anyone promised you anything or
4 offered you anything to get you to plead guilty other than what
5 is in this written plea agreement?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Everything is in the letter?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. Looking at the letter, I see
10 on page 4 --

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: That you and the government have reached
13 agreement regarding the appropriate calculation of your
14 sentence under a part of our law known as the sentencing
15 guidelines. Specifically, I see that you and the government
16 have agreed that the appropriate guidelines sentencing range
17 for you is from 151 months to 188 months in prison and that the
18 appropriate monetary guideline range for you under the
19 guidelines is from 30,000 to \$1 million.

20 Is that correct?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand that under this
23 agreement neither you nor the government is allowed to argue to
24 the sentencing judge for a guidelines calculation which is
25 different from the one set forth in your written plea

JCQAABOSP

Plea

1 agreement?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you also understand that in this
4 agreement you have limited your right to appeal in certain
5 respects from any sentence that may be imposed specifically as
6 long as the sentencing judge gives you a prison term no longer
7 than 188 months, any lawful sentence of supervised release and
8 a fine no greater than a million dollars. You are giving up
9 your right to challenge your sentence whether by direct appeal,
10 writ of habeas corpus or otherwise.

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: You understand that last part I said if
13 you get a sentence of less than or equal to 188 months you
14 can't appeal your sentence; do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: OK. Do you also understand that under the
17 terms of your plea agreement, even if you later learn that the
18 government withheld from your counsel certain information that
19 would have been helpful to you in defending yourself at trial,
20 you won't be able to complain about that or withdraw your
21 guilty plea for that reason?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that the terms of your
24 plea agreement, including any calculations relating to
25 sentencing are not binding on the sentencing judge?

JCQAABOSP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: The sentencing judge could reject those
3 calculations and could impose a more severe sentence than you
4 expect without permitting you to withdraw your plea of guilty.
5 That is because the sentencing judge is required to make his
6 own independent calculation of the appropriate sentencing range
7 under the guidelines. He'll also have the discretion to give
8 you a sentence below that range or above that range up to the
9 maximum sentence I told you about earlier.

10 In addition to the guidelines and possible departures
11 from the guidelines, the sentencing judge will consider the
12 factors set forth at 18 U.S.C. Section 3553(a). In other
13 words, the sentencing judge will pronounce whatever sentence he
14 believes is the appropriate sentence for you even if that
15 sentence is different from the range set forth in your plea
16 agreement.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: In addition, the sentencing judge will
20 consider a presentence report that will be prepared by the
21 probation department. Before you are sentenced both you and
22 the government will have the opportunity to review that report
23 and challenge the facts which are purported by the probation
24 officer.

25 Ms. Bosquez, do you understand that in the federal

JCQAABOSP

Plea

1 sentence there is no parole?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: So if you are sentenced to prison you will
4 not be released on parole.

5 Let me ask both counsel at this juncture starting with
6 the Assistant U.S. Attorney if there are any other provisions
7 in the plea agreement you would like me to go over?

8 MR. RODRIQUEZ: No, your Honor.

9 THE COURT: Mr. Lind?

10 MR. LIND: No, judge.

11 THE COURT: All right. Ms. Bosquez, one more time,
12 because it's an important question. Aside from what's in the
13 plea agreement itself, have any promises been made to you to
14 influence you to plead guilty?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Have any promises been made to you
17 concerning the actual sentence you will receive?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: All right. Ma'am, you have been advised
20 of the charges against you the possible penalties you face and
21 the rights you are giving up. Do still wish to plead guilty to
22 Count One?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Is your plea voluntary and made of your
25 own free will.

JCQAABOSP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Ms. Bosquez, with respect to Count One of
3 the information in your case, how do you plead, guilty or not
4 guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: Can you tell me in your own words please,
7 what you did that makes you guilty of that conduct.

8 MR. LIND: May I have one moment, judge, just to
9 clarify that with her?

10 THE COURT: Yes.

11 (Pause)

12 THE COURT: Counsel, is your client ready?

13 MR. LIND: Yes, judge.

14 THE COURT: Ms. Bosquez, the question was please tell
15 me what you did that makes you guilty of the crime to which you
16 are pleading guilty.

17 THE DEFENDANT: I conspired with other persons to
18 distribute drugs, fentanyl, cocaine and that is against the
19 law. That was in 2018, yes.

20 THE COURT: OK. You mentioned had fentanyl and
21 cocaine?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Were any other drugs involved in the
24 conspiracy that you just told me about?

25 THE DEFENDANT: Cocaine.

JCQAABOSP

Plea

1 THE COURT: Anything else?

2 THE DEFENDANT: Nothing else. Fentanyl, cocaine and
3 heroin.

4 THE COURT: Fentanyl, cocaine and heroin, all right.
5 And you say this took place in 2018?

6 THE DEFENDANT: Yes, urge.

7 THE COURT: And you said that you entered into a
8 conspiracy. Does that mean that you agreed with one or more
9 than one other persons to sell these drugs?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: OK. And where did this happen?

12 THE DEFENDANT: In the Bronx.

13 THE COURT: In Bronx, New York.

14 THE DEFENDANT: (Nodding).

15 THE COURT: All right. And at the time you entered
16 into this agreement to sell cocaine, fentanyl and heroin, did
17 you know that what you were doing was against the law?

18 THE DEFENDANT: Yes, I knew it. I didn't think about
19 it but I knew it.

20 THE COURT: All right. Now, I see that you have some
21 notes in front of you. Did your attorney help prepare those
22 notes that you used?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: OK. Is everything that you've just told
25 me true?

JCQAABOSP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Did you know at the time you entered into
3 this conspiracy that what you were doing was wrong?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: All right. Mr. Rodriguez, do you believe
6 that is a sufficient factual predicate for the plea?

7 MR. RODRIQUEZ: Yes, your Honor.

8 THE COURT: Are there any additional questions would
9 you like me to ask Ms. Bosquez?

10 MR. RODRIQUEZ: No, your Honor.

11 THE COURT: Does the government represent that this is
12 sufficient evidence to establish guilt beyond a reasonable
13 doubt and would you like to make a proffer?

14 MR. RODRIQUEZ: Yes, your Honor.

15 The government would proffer that its evidence at
16 trial would establish that the defendant participated in a
17 conspiracy to distribute narcotics out of a diner in the Bronx
18 over the course of 2018. Its proof would include, among other
19 things, the following video and audio recorded purchases of
20 substances containing detectable amounts of fentanyl, heroin
21 and cocaine by undercover officers from the defendant, as well
22 as her co-conspirators, the testimony of law enforcement
23 officers, including undercover officers, as well as laboratory
24 results related to the substances purchased by undercover
25 officers.

JCQAABOSP

Plea

1 THE COURT: Thank you, counsel.

2 All right. Ms. Bosquez, on the basis of your
3 responses to my questions and my observation of your demeanor,
4 I find that you are competent to enter a guilty plea.

5 I am satisfied that you understand your rights,
6 including your right to go to trial, and that you are aware of
7 the consequences of your plea including the sentence that may
8 be imposed. I also conclude that you are voluntarily pleading
9 guilty and that you have admitted that you are guilty as
10 charged in Count One of the information. For these reasons I
11 will recommend that the district judge accept your plea.

12 This is Judge Marrero's case, correct?

13 MR. RODRIQUEZ: Yes, your Honor.

14 THE COURT: All right. I will ask the government to
15 order a copy of the transcript, to submit it to Judge Marrero
16 together with the additional paperwork he'll need to act on my
17 recommendation.

18 Has he set is a sentencing date?

19 MR. RODRIQUEZ: He has not, your Honor. We'd ask the
20 Court to set a three-month control date.

21 COURTROOM DEPUTY: April 25, 2020.

22 THE COURT: Ordinarily, we would do six months with
23 the defendant out of custody. Do you have a reason or seeking
24 a shorter control date?

25 MR. RODRIQUEZ: No, your Honor. Whatever the Court

JCQAABOSP

Plea

1 would do in the ordinary course.

2 THE COURT: April 25, 2020 is your control date. Now
3 the district judge may set a different sentencing date. So you
4 need to be in touch with the district judge or that I will
5 direct that the presentence report be prepared.

6 Mr. Rodriguez, could you deliver the case summary to
7 the probation department?

8 MR. RODRIQUEZ: Yes, your Honor.

9 THE COURT: Ordinarily, I say within the next two
10 weeks but we're still in the holiday season.

11 MR. RODRIQUEZ: Thank you, your Honor.

12 THE COURT: Mr. Lind, can you be available for
13 interview by the probation department within the next few
14 weeks?

15 MR. LIND: Yes, your Honor.

16 THE COURT: Now I understand Ms. Bosquez is released
17 on bail. Are there any objections to continuing the present
18 bail?

19 MR. RODRIQUEZ: No, your Honor.

20 THE COURT: All right. Ms. Bosquez, you will remain
21 released on the same bail conditions. I want to stress to you,
22 ma'am, that all of the conditions on which you were released up
23 until now continue to apply. In addition, any violation of
24 those conditions as you've previously been warned would have
25 very serious consequences, including revocation of bail and

JCQAABOSP

Plea

1 potentially prosecution for a new crime called bail jumping.

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. Anything further on this
5 matter from the government?

6 MR. RODRIQUEZ: No, your Honor.

7 THE COURT: From the defense.

8 MR. LIND: No, your Honor.

9 Thank you very much.

10 THE COURT: Thank you, ladies and gentlemen.

11 (Adjourned)

12

13

14

15

16

17

18

19

20

21

22

23

24

25



ORIGINAL

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 17, 2019

BY EMAIL

Richard Bruce Lind
Richard Lind Attorney at Law
575 Lexington Ave
New York, NY 10022
(212) 888-7725
Fax: (212) 371-2961
Email: rlindesq@aol.com

Re: *United States v. Angela Bosquez*, S1 19 Cr. 169 (VM)

Dear Mr. Lind:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Angela Bosquez ("the defendant") to Count One of the above-referenced Information (the "Information"). Count One charges the defendant with conspiracy to distribute and possess with intent to distribute mixtures and substances containing a detectable amount of fentanyl, mixtures and substances containing a detectable amount of heroin, and mixtures and substances containing a detectable amount of cocaine, in violation of Title 21, United States Code, Sections 841(b)(1)(C) and 846. This charge carries a maximum term of imprisonment of 20 years; a maximum term of supervised release of life; a mandatory minimum term of supervised release of three years; a maximum fine, pursuant to Title 18, United States Code, Section 3571 and Title 21, United States Code, Section 841(b)(1)(C), of the greatest of \$1,000,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense; and a \$100 mandatory special assessment.

In consideration of the defendant's plea to the above offense, the defendant will not be further prosecuted criminally by this Office (except for criminal tax violations, if any, as to which this Office cannot, and does not, make any agreement) for conspiring to distribute and possess with intent to distribute fentanyl, heroin, and cocaine from in or about January 2018 through in or about January 2019, as charged in Count One of the Information, it being understood that this agreement does not bar the use of such conduct as a predicate act or as the basis for a sentencing enhancement in a subsequent prosecution including, but not limited to, a prosecution pursuant to 18 U.S.C. §§ 1961 *et seq.* In addition, at the time of sentencing, the Government will move to dismiss any open Count(s) against the defendant. The defendant agrees that with respect to any and all dismissed charges she is not a "prevailing party" within the meaning of the "Hyde

Amendment,” Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

The defendant hereby admits the forfeiture allegation with respect to Count One of the Information and agrees to forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offense and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense. It is further understood that any forfeiture of the defendant’s assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon her in addition to forfeiture.

A. Offense Level

In consideration of the foregoing and pursuant to United States Sentencing Guidelines (“U.S.S.G.” or “Guidelines”) Section 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

1. The applicable Guidelines manual is the November 1, 2018 edition.
2. The Guideline applicable to Count One is U.S.S.G. § 2D1.1. Pursuant to U.S.S.G. §§ 2D1.1(a)(5) and 2D1.1(c)(14), the base offense level is 12 because the offense involved less than 4 grams of fentanyl.
3. Pursuant to U.S.S.G. § 4B1.1(a), the defendant is a career offender because (1) she was at least eighteen years old at the time she committed the instant offense; (2) the offense charged in Count One is a felony that is a controlled substance offense; and (3) the defendant has at least two prior felony convictions for crimes of violence or controlled substance offenses, to wit, (a) on or about April 15, 1998, the defendant was convicted in Bronx County Supreme Court of Criminal Sale of a Controlled Substance on School Grounds, in violation of New York Penal Law § 220.44(2); and (b) on or about April 15, 1998, the defendant was convicted in Bronx County Supreme Court of Criminal Sale of a Controlled Substance on School Grounds, in violation of New York Penal Law § 220.44(2).
4. Pursuant to U.S.S.G. § 4B1.1(b)(3), the total offense level for Count One is 32 because the statutory maximum sentence for the offense charged in Count One is 20 years or more, but less than 25 years’ imprisonment.
5. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through her allocution and subsequent conduct prior to the imposition of sentence, a two-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, the Government will move at sentencing for an

additional one-level reduction, pursuant to U.S.S.G. § 3E1.1(b), because the defendant gave timely notice of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level is 29.

B. Criminal History Category

Based upon the information now available to this Office (including representations by the defense), the defendant has ten criminal history points, calculated as follows:

1. On or about April 24, 2015, the defendant was convicted in Bronx County Supreme Court of Criminal Possession of a Controlled Substance in the Seventh Degree, in violation of New York Penal Law § 220.03. The defendant was later sentenced to a conditional discharge. Pursuant to U.S.S.G. § 4A1.1(c), this sentence receives one criminal history point.
2. On or about January 28, 2003, the defendant was convicted in Bronx County Supreme Court of Attempted Promoting Prison Contraband in the First Degree, in violation of New York Penal Law § 205.25. The defendant was later sentenced to a term of imprisonment of 18 months to three years. The defendant was admitted to prison on March 12, 2003 and released on parole on June 17, 2004. Pursuant to U.S.S.G. §§ 4A1.1(a) and 4A1.2(e)(1), this sentence receives three criminal history points.
3. On or about April 15, 1998, the defendant was convicted in Bronx County Supreme Court of Criminal Sale of a Controlled Substance on School Grounds, in violation of New York Penal Law § 220.44(2). The defendant committed the offense on January 26, 1998 and was arrested on January 26, 1998. The defendant was sentenced on April 15, 1998 to two to six years of imprisonment. The defendant was in prison from April 28, 1998 until August 27, 1999 when she was released on parole. The defendant then returned to prison on March 12, 2003 for violating parole in connection with the offense described in Paragraph B.2 above. The defendant was then released from prison again on parole on June 17, 2004. Pursuant to U.S.S.G. §§ 4A1.1(a), 4A1.2(a)(2), 4A1.2(e)(1), and 4A1.2(k), this sentence receives three criminal history points.
4. On or about April 15, 1998, the defendant was convicted in Bronx County Supreme Court of Criminal Sale of a Controlled Substance on School Grounds, in violation of New York Penal Law § 220.44(2). The defendant committed the offense on November 15, 1997 and was arrested on November 15, 1997. The defendant was sentenced on April 15, 1998 to two to six years of imprisonment. The defendant was in prison from April 28, 1998 until August 27, 1999 when she was released on parole. The defendant then returned to prison on March 12, 2003 for violating parole in connection with the offense described in Paragraph B.2 above. The defendant was then released from prison again on parole on June 17, 2004. Pursuant to U.S.S.G. §§ 4A1.1(a), 4A1.2(a)(2), 4A1.2(e)(1), and 4A1.2(k), this sentence receives three criminal history points.

Based on the defendant's criminal history points, her Criminal History Category is V. Because the defendant is a career offender pursuant to U.S.S.G. § 4B1.1(b), she is in Criminal History Category VI.

C. Sentencing Range

Based upon the calculations set forth above, the defendant's stipulated Guidelines range is 151 to 188 months' imprisonment (the "Stipulated Guidelines Range"). In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Guidelines level 29, the applicable fine range is \$30,000 to \$1,000,000.

The parties agree that neither a downward nor an upward departure from the Stipulated Guidelines Range set forth above is warranted. Accordingly, neither party will seek any departure or adjustment pursuant to the Guidelines that is not set forth herein. Nor will either party in any way suggest that the Probation Office or the Court consider such a departure or adjustment under the Guidelines.

The parties agree that either party may seek a sentence outside of the Stipulated Guidelines Range based upon the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a).

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and the defendant, nothing in this Agreement limits the right of the parties (i) to present to the Probation Office or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Range (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a); (iii) to seek an appropriately adjusted Guidelines range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above; and (iv) to seek an appropriately adjusted Guidelines range or mandatory minimum term of imprisonment if it is subsequently determined that the defendant qualifies as a career offender under U.S.S.G. § 4B1.1. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, *see* U.S.S.G. § 3E1.1, regardless of any stipulation set forth above, if the defendant fails clearly to demonstrate acceptance of responsibility, to the satisfaction of the Government, through her allocution and subsequent conduct prior to the imposition of sentence. Similarly, nothing in this Agreement limits the right of the Government to seek an enhancement for obstruction of justice, *see* U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

It is understood that pursuant to U.S.S.G. § 6B1.4(d), neither the Probation Office nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Office or the Court contemplates any Guidelines adjustments, departures, or calculations different from

those stipulated to above, or contemplates any sentence outside of the stipulated Guidelines range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is further understood that the Guidelines are not binding on the Court. The defendant acknowledges that her entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw her plea of guilty should the sentence imposed by the Court be outside the Guidelines range set forth above.

It is agreed (i) that the defendant will not file a direct appeal; nor bring a collateral challenge, including but not limited to an application under Title 28, United States Code, Section 2255 and/or Section 2241, of any sentence within or below the Stipulated Guidelines Range of 151 to 188 months' imprisonment, and (ii) that the Government will not appeal any sentence within or above the Stipulated Guidelines Range. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation. The parties agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with the undischarged portion of any other sentence of imprisonment that has been imposed on the defendant at the time of sentencing in this case. The defendant further agrees not to appeal any term of supervised release that is less than or equal to the statutory maximum. The defendant also agrees not to appeal any fine that is less than or equal to \$1,000,000, and the Government agrees not to appeal any fine that is greater than or equal to \$30,000. Notwithstanding the foregoing, nothing in this paragraph shall be construed to be a waiver of whatever rights the defendant may have to assert claims of ineffective assistance of counsel, whether on direct appeal, collateral review, or otherwise. Rather, it is expressly agreed that the defendant reserves those rights.

The defendant hereby acknowledges that she has accepted this Agreement and decided to plead guilty because she is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw her plea or to attack her conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, *Jencks* Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, or impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

The defendant recognizes that, if she is not a citizen of the United States, her guilty plea and conviction make it very likely that her removal from the United States is presumptively mandatory and that, at a minimum, she is at risk of being removed or suffering other adverse immigration consequences. If the defendant is a naturalized citizen of the United States, she recognizes that pleading guilty may have consequences with respect to the defendant's

immigration status. For example, under federal law, an individual may be subject to denaturalization and removal if her naturalization was procured by concealment of a material fact or by willful misrepresentation, or otherwise illegally procured. The defendant acknowledges that she has discussed the possible immigration consequences (including removal or denaturalization) of her guilty plea and conviction with defense counsel. The defendant affirms that she wants to plead guilty regardless of any immigration or denaturalization consequences that may result from the guilty plea and conviction, even if those consequences include denaturalization and/or removal from the United States. The defendant understands that denaturalization and other immigration consequences are typically the subject of a separate proceeding, and the defendant understands that no one, including her attorney or the District Court, can predict with certainty the effect of the defendant's conviction on the defendant's immigration or naturalization status. It is agreed that the defendant will have no right to withdraw her guilty plea based on any actual or perceived adverse immigration consequences (including removal or denaturalization) resulting from the guilty plea and conviction. It is further agreed that the defendant will not challenge her conviction or sentence on direct appeal, or through litigation under Title 28, United States Code, Section 2255 and/or Section 2241, on the basis of any actual or perceived adverse immigration consequences (including removal or denaturalization) resulting from her guilty plea and conviction.

It is further agreed that should the conviction following the defendant's plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Apart from any written Proffer Agreement(s) that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: Sheb Swett
Justin V. Rodriguez / Sheb Swett
Assistant United States Attorney
(212) 637-2591 / 6522

APPROVED:

George D. Turner / Jason M. Swergold
George D. Turner / Jason M. Swergold
Chiefs, Narcotics Unit

AGREED AND CONSENTED TO:

Angela Bosquez
Angela Bosquez

12/26/19
DATE

APPROVED:

Richard Bruce Lind
Richard Bruce Lind, Esq.
Attorney for Angela Bosquez

12/26/19
DATE